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least; but if he makes such an admission, or if the plaintiff offers affirmative proof to the same effect, this is a complete reply to the presumption, and establishes the right to recover. If the evidence bearing on the fact of nonpayment is ambiguous or contradictory, a question is presented for decision in the usual manner; generally by the verdict of a jury.

Neither party to this suit controverts these rules, if the action were between individual litigants; the dispute is whether they apply when the United States is a plaintiff and is attempting to prove a debt. On principle, we see no sufficient reason why the rules should not apply in such a situation. In courts of justice, facts must be proved in the same manner and by the same means, no matter who the litigants may be. The government is not privileged merely to lay its claim before such a tribunal, and demand allowance forthwith. Speaking generally, it must offer the same evidence as an individual, both in quantity and quality; and if it offers none, or if the evidence be insufficient, it fails precisely as the individual fails in similar circumstances. The property of a citizen can only be taken according to the rules and forms of law, and, even if it be the sovereign who is striving to take it by an action in court, we think the sovereign also should be required to prove his right, and to prove it with the same strictness and according to the same rules as prevail in other cases."

Going Home to Mamma Not Desertion.—A wife, being unable to live happily with her husband at the home of his parents, went home to mamma, where she insisted on staying unless the husband would provide another home for her. The man's parents were well to do and did not need the services of the son, who was a hard-working man capable of providing a separate home for his wife. Before the marriage the wife agreed to live with her husband's parents. A suit for divorce was instituted by the husband on the ground of desertion, but the complaint was dismissed for want of equity. The Supreme Court of Arkansas, in *Marshak v. Marshak*, 170 Southwestern Reporter, 567, in affirming the decree, held that the agreement by the wife to live with the husband's parents was an antenuptial contract, without binding force, it being terminated by and merged into the marriage contract which bound the parties to live together as husband and wife. It was also held that the refusal of the wife to live with her husband, under the circumstances, was not desertion.

Carriers—Sleeping Passenger—Duty with Respect to Collecting Fare.—A carrier is held not liable for ejecting a passenger for nonpayment of fare, in *Chesapeake & O. R. Co. v. Friend*, L. R. A., 1915C, 148, where he failed to respond to three efforts by the conductor to arouse him from sleep due to intoxicants and loss of sleep, to secure his fare, and made no response, until he had been pushed out onto the platform in the process of ejection.